

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
Bid Protest

SWIFT & STALEY INC.,

Plaintiff,

v.

UNITED STATES,

Defendant.

) No. 21-1279 C

MOTION FOR LEAVE TO FILE THE COMPLAINT UNDER SEAL

Pursuant to Appendix C, Paragraph 4, of the Rules of the United States Court of Federal Claims (“RCFC”), plaintiff, Swift & Staley Inc. (“SSI”), by and through its undersigned counsel, respectfully moves this Court for leave to file the Complaint under seal. The Complaint concerns the U.S. Small Business Administration’s (“SBA”) Size Determination Case No. 3-2021-026 (the “Size Determination”), in response to a size protest filed under U.S. Department of Energy (“DOE”) Solicitation No. 89303319REM000057 (the “Solicitation”). In the Size Determination, the SBA concluded SSI was “other than a small business concern” under the applicable size standard of \$41.5 million and, therefore, was ineligible for award of the resulting contract. The SBA’s Size Determination was affirmed by the SBA Office of Hearings and Appeals (“OHA”).

The Size Determination and subsequent OHA opinion contain information regarding SSI’s revenues and confidential and proprietary business information. SSI anticipates that the proceedings before this Court will likewise require an examination of confidential and proprietary business information, as well as DOE’s confidential source selection information. The release of

this information to SSI's competitors and/or the general public has the potential to cause significant harm to SSI.

Pursuant to Appendix C, Paragraph 6, of the RCFC, when filing a complaint under seal, the sealed complaint "must be . . . accompanied by a proposed redacted version of the pleading (i.e., a version that omits confidential or proprietary information)." A proposed redacted version of SSI's Complaint is currently filed herewith. Counsel for SSI intends to coordinate redaction of the Complaint with the Department of Justice after counsel has been assigned to this protest.

WHEREFORE, SSI respectfully requests that the Court grant this Motion for Leave to File the Complaint Under Seal.

Respectfully Submitted,



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Dated: April 23, 2021

Counsel for Swift & Staley Inc.

CERTIFICATE OF FILING

I hereby certify that a copy of the foregoing was filed via the Court's Electronic Filing system on April 23, 2021. I understand that notice of this filing will be served on the counsel to the parties to this case via the Court's ECF system.

A handwritten signature in blue ink, appearing to read "R. P. Rector", is positioned above a horizontal line.

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